vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5702 OF 2005

Indofil Chemicals Company ... Petitioner

V/s.

Shri S. C. Patil & Ors. ... Respondents

Mr.Anaokar i/b Piyush Shah for Petitioner
Mr.R.Nair for Respondent No.1

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **OCTOBER 20, 2005**

P.C.:

. The award challenged in the writ petition is with respect to the issues as to whether the three enquiries conducted against the respondent-workman are fair and proper and whether the findings therein are perverse. The Labour Court has in a very cursory manner concluded that the enquiries have been conducted in accordance with the principles of natural justice and that the findings are perverse. The Labour Court has arrived at these conclusions by observing that the attendance register was not produced at the enquiry although the computerised statements showing the absence of the workman have been produced. The Labour Court has also observed that the allegations against the respondent-workman are minor and technical in nature and

therefore, the enquiries were set aside. Apart form this, the Labour Court was impressed by the fact that the workman was in service for 20 years and since it found that the misconduct was of a minor and technical nature, the Labour Court deemed it fit to hold that the enquiries were fair and proper and held in accordance with the principles of natural justice and that the findings are perverse.

2. In my view, the appreciation of evidence by the Labour Court leaves much to be desired. The Labour Court has erroneously held the findings of the Enquiry Officer to be perverse on the ground that the workman had completed several years in service and the misconduct was of a minor or technical nature. These cannot be reasons for arriving at the conclusion that the findings were perverse. The Labour Court is expected to reappraise the evidence led before the enquiry officer before arriving at such a conclusion. The contention of the respondent-workman that the chargesheet is vague has also not been considered while ascertaining whether the enquiry was conducted in consonance with the rules of natural justice. Therefore, it would be appropriate to remand the matter to the Labour Court to decide the award part I, afresh after the stage of evidence. Both the parties have

already filed written arguments. The parties will appear before the Labour Court on 8.11.2005. The Labour Court will hear them afresh and decide the issues which have been framed. These issues will be decided in respect of each of the enquiries and the findings must reflect that each of the enquiries and the reports of the 3 enquiry officers have been considered by the Labour Court while deciding the award part I.

3. Petition is disposed off accordingly.